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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/647,821	01/16/2001	David Solomon		4121

7590 10/05/2004  
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EXAMINER

CHOI, LING SIU

ART UNIT PAPER NUMBER

1713

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/647,821

Applicant(s)

SOLOMON ET AL.

Examiner

Ling-Siu Choi

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 January 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/03/2000.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 1-16 are objected to because of the following informalities: (a) claim 1, line 5, the recitation "the chamber" lacks of antecedent basis. Does "the chamber" refer to "a vacuum chamber" (see claim 6) and (b) claims 5-6, 8, 10-13, and 15-16 are objected to under 37 CFR 1.75(c) as being in improper form because they depend on multiple dependent claims. See MPEP § 608.01(n). Accordingly, **the claims 5-8 and 10-16 have not been further treated on the merits.**

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. **The following is a quotation of the second paragraph of 35 U.S.C. 112:**

**The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.**

3. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4, line 3, the phrase "preferably" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Ebata et al. (US 5,350,552).

The present claim relates to a process to form an electrophoresis gel in a plastic cassette, the process comprising

(a)	pretreating the plastic cassette to substantially remove polymerization initiator
(b)	preparing a monomer solution of acrylamide, which is free of inhibitor(s)
(c)	preparing initiator and co-initiator solutions which are free of inhibitor(s)
(d)	mixing the monomer solution with the initiator and co-initiator solution to form an initiated monomer solution
(e)	applying the initiated monomer solution to the plastic cassette
(f)	allowing the initiated monomer solution to polymerize in the plastic cassette

(summary of claim 9)

Ebata et al. disclose a batch method and an apparatus to prepare a polyacrylamide aqueous gel plate for electrophoresis, the method comprising (1) placing

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a plurality of gel plate supporters in a **gel-forming container** comprising (a) a partition rack comprised of plastic or rubber partition members which separate the gel plate supporters from each other, (b) **an inlet port**, (c) an outlet port, and (d) an airtight lid, (2) closing the airtight lid, (3) eliminating oxygen from the container by evacuating air through the outlet port, (4) charging a gel-forming solution into the container through the inlet port, (5) allowing the gel-forming solution to gelatinize on the gel plate supporter, (6) removing the partition rack from the container, and (7) removing the individual gel plates from the partition rack (claim 1). Thus, the present claim is anticipated by the disclosure of Ebata et al..

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ebata et al. (US 5,350,552) in view of Fletcher (US 3,814,678).

The disclosure of Ebata et al. is adequately disclosed in the paragraph 6 and is incorporated herein by reference.

The difference between the present claims and the disclosure is the requirement

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of a baffle positioned over the inlet port to be used in the present invention.

Fletcher discloses an electrophoretic sample insertion system comprising baffles which **direct the buffer into a uniform flow** across the diameter of the chamber (col. 2, lines 61-65 ). In light of such benefit, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use baffle for the inlet port to achieve an uniform flow and thereby obtain the present invention.

### ***Conclusion***

8. Figures 4 and 7-9 are objected because they are clear.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ling-Siu Choi whose telephone number is 571-272-1098. The examiner can normally be reached on Monday to Friday.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reach on 571-272-1114.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

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Business Center (EBC) at 866-217-9197 (toll-free).

*Ling - Siu Choi*

**LING-SUI CHOI**  
**PRIMARY EXAMINER**

Ling -Siu Choi, Ph.D.

September 27, 2004